

1 BEFORE THE DEPARTMENT OF MOTOR VEHICLES

2 OF THE STATE OF CALIFORNIA

3 In the Matter of the Hearing)
4 Concerning the Driving Privilege of:)
5 Abhinav Bhatnagar) File D3219816
6 at the Department of Motor Vehicles)
7 303 Hegenberger Road, Suite 400)
Oakland, CA 94621)
8 July 26, 2006; October 11, 2006)
9

10 HEARING OFFICER LEE: Counselor, the record is now
11 on. Can I have you please state your name and business
12 address?

13 MR. TAGUCHI: Yes. Good morning, Mr. Lee. My name
14 is Kevin Taguchi. My business address is 1260 B Street,
15 Suite 240, Hayward, California, 94541.

16 HEARING OFFICER LEE: Thank you, counsel. My name is
17 Leland Lee. I'm the Hearing Officer that's been assigned
18 to do this hearing today.

19 Mr. Bhatnagar?

20 MR. BHATNAGAR: Yes, sir.

21 HEARING OFFICER LEE: Can I have you state your name
22 and your current address for the record?

23 MR. BHATNAGAR: Yes, sir. My name is Abhinav
24 Bhatnagar. And my current address is 36927 Papaya
25 Street, Newark, California, zip code 94560.

1 that's Exhibit No. 5.

2 (Department's Exhibit No. 5 marked for
3 identification.)

4 HEARING OFFICER LEE: The Notice of Hearing for today
5 identified as Exhibit No. 6.

6 (Department's Exhibit No. 6 marked for
7 identification.)

8 HEARING OFFICER LEE: And this document which I refer
9 to as a discovery document as Department's Exhibit No. 7.

10 (Department's Exhibit No. 7 marked for
11 identification.)

12 MR. TAGUCHI: Four is the Temp License. Five is
13 what?

14 HEARING OFFICER LEE: No. Four is the driver's
15 license record of Mr. Bhatnagar.

16 MR. TAGUCHI: Oh.

17 HEARING OFFICER LEE: Five is the Temp License. Six
18 is the Notice of Hearing. Seven is the Notice of
19 Discovery.

20 At this time, counsel, before the Department proposes
21 to move these documents into evidence, I want to get the
22 testimony of Officer Ingrassia.

23 MR. TAGUCHI: Sure.

24 HEARING OFFICER LEE: Officer, can I have you please
25 state your name, badge number and enforcement agency for

1 the record?

2 OFFICER INGRASSIA: Officer Jason Ingrassia, employee
3 number 65945, and I work for Contra Costa County
4 Sheriff's Department, currently assigned to the City of
5 San Ramon, which is a contract city for the Sheriff's
6 Department.

7 HEARING OFFICER LEE: Do you promise to tell the
8 truth, the whole truth, and nothing but the truth?

9 OFFICER INGRASSIA: I do.

10 HEARING OFFICER LEE: Thank you. Officer, I'm
11 identifying **Exhibit No. 1**. Do you recognize **Exhibit**
12 **No. 1**, the Age 21 and Older Officer's Statement?

13 OFFICER INGRASSIA: Yes, I do.

14 HEARING OFFICER LEE: Did you complete this form?

15 OFFICER INGRASSIA: Yes.

16 HEARING OFFICER LEE: At the time of completion were
17 the events fresh in your mind?

18 OFFICER INGRASSIA: Yes.

19 HEARING OFFICER LEE: And to the best of your
20 knowledge, were the events depicted on **Exhibit No. 1** true
21 and correct?

22 OFFICER INGRASSIA: Yes.

23 HEARING OFFICER LEE: Officer, what are your duties
24 with the Contra Costa County Sheriff's Department in
25 contract with the San Ramon Police Department? What do

1 you do?

2 OFFICER INGRASSIA: I'm assigned to patrol duties in
3 the city of San Ramon?

4 HEARING OFFICER LEE: Approximately how long have you
5 been employed in that capacity?

6 OFFICER INGRASSIA: Been a deputy sheriff for
7 approximately three and a half years.

8 HEARING OFFICER LEE: Now, the purpose -- the reason
9 why I asked you to appear today is I want to clarify the
10 time that the blood sample was taken.

11 OFFICER INGRASSIA: Okay.

12 HEARING OFFICER LEE: I have a supplemental document.
13 However, I am not clear who completed the document. Do
14 you have any recollection of this document, this page two
15 of **Exhibit 2**, Blood Sample -- Blood Sample for Alcohol
16 Analysis?

17 OFFICER INGRASSIA: Yes. This is the evidence
18 envelope for the blood sample. And it states right here
19 the blood was drawn at approximately 2:30 in the
20 morning --

21 HEARING OFFICER LEE: Were --

22 OFFICER INGRASSIA: -- on May 20th.

23 HEARING OFFICER LEE: Were -- were this document
24 completed by you or a different officer?

25 OFFICER INGRASSIA: I completed that document.

1 HEARING OFFICER LEE: Okay. So you indicated the
2 time of the 2:30?

3 OFFICER INGRASSIA: Yes, sir.

4 HEARING OFFICER LEE: Okay. Thank you, Officer.
5 Counsel?

6 MR. TAGUCHI: Thank you. Officer, how do you
7 pronounce your last name?

8 OFFICER INGRASSIA: Ingrassia.

9 MR. TAGUCHI: Ingrassia? How long have you been --
10 how many DUI cases have you investigated?

11 OFFICER INGRASSIA: Be a guess. About 20, 25.

12 MR. TAGUCHI: Have you ever testified at a DMV
13 hearing before?

14 OFFICER INGRASSIA: Yes.

15 MR. TAGUCHI: How many times?

16 OFFICER INGRASSIA: Once.

17 MR. TAGUCHI: This is your second time?

18 OFFICER INGRASSIA: Yes, sir.

19 MR. TAGUCHI: What kind of training do you have in
20 regards to DUI investigation?

21 OFFICER INGRASSIA: Whatever we -- whatever we
22 received in the police academy, which is -- I don't
23 recall. Half a day.

24 MR. TAGUCHI: What is your normal assignment other
25 than -- so patrol is your normal assignment?

1 OFFICER INGRASSIA: Yes.

2 MR. TAGUCHI: And what types of crimes do you
3 normally investigate?

4 OFFICER INGRASSIA: Does this have anything to do
5 with a DMV hearing?

6 MR. TAGUCHI: It has to do with your experience.

7 HEARING OFFICER LEE: What, a DUI investigation?

8 OFFICER INGRASSIA: Is this -- is this within the
9 scope of the admin per se hearing?

10 MR. TAGUCHI: He -- he does the objections.

11 HEARING OFFICER LEE: Yeah. Yeah.

12 MR. TAGUCHI: You answer the questions.

13 HEARING OFFICER LEE: I normally would -- if it's out
14 of context or out of the --

15 OFFICER INGRASSIA: The scope?

16 HEARING OFFICER LEE: Yeah. But since the counsel
17 has indicated he wants to see about your training and
18 background --

19 OFFICER INGRASSIA: Okay. Go ahead. Would you
20 please repeat the question?

21 MR. TAGUCHI: What type of crimes do you normally
22 investigate?

23 OFFICER INGRASSIA: All sorts of crimes. Burglaries.
24 All kinds of thefts, drugs, alcohol-related crimes, DUIs.

25 MR. TAGUCHI: So you have no specialty in any types

1 of crimes you investigate that you're specifically
2 trained for, such as DUIs?

3 OFFICER INGRASSIA: We're -- we're trained in all
4 crimes.

5 MR. TAGUCHI: I guess my question is, are you --

6 OFFICER INGRASSIA: I have not gone to a DUI school.
7 I think -- if that's what you're asking.

8 MR. TAGUCHI: Correct.

9 OFFICER INGRASSIA: I have not.

10 MR. TAGUCHI: Okay. When did you fill out this form
11 that you testified to after the arrest?

12 OFFICER INGRASSIA: Sometime during -- you know,
13 after I brought Mr. Bhatnagar back to the police
14 department and the time it was -- the blood sample was
15 placed in its envelope, I filled it out.

16 MR. TAGUCHI: When you put -- who put the blood into
17 this envelope?

18 OFFICER INGRASSIA: The -- the phlebotomist does.
19 Mr. Young in this -- in this case.

20 MR. TAGUCHI: And Mr. Young, did he fill out any
21 portion of this envelope?

22 OFFICER INGRASSIA: Looks like he signed it. He
23 might have wrote 2:30. Doesn't look like my writing here
24 either, San Ramon. Looks like he filled out from six,
25 seven and eight. That looks like what he -- he put on --

1 filled out.

2 MR. TAGUCHI: And you filled out one through four?

3 OFFICER INGRASSIA: I definitely filled out one
4 through five and -- and then the chain of -- the chain of
5 custody, the chain of possession portion also.

6 MR. TAGUCHI: Which part of the chain of possession
7 did you --

8 OFFICER INGRASSIA: All except for his signature it
9 looks like.

10 MR. TAGUCHI: Now, where did you get this particular
11 envelope?

12 OFFICER INGRASSIA: The phlebotomists bring this.
13 They -- they -- they provide the envelope.

14 MR. TAGUCHI: And do you record the -- when you do a
15 DUI investigation and you do -- how many blood tests have
16 you done in DUI investigations?

17 OFFICER INGRASSIA: Maybe three. Three or four.

18 MR. TAGUCHI: It's not very many?

19 OFFICER INGRASSIA: No. Most people do breath.

20 MR. TAGUCHI: So you record -- it's important to
21 record the number of the -- the envelope into your police
22 report to identify the chain of custody?

23 OFFICER INGRASSIA: It's -- it's -- it is documented.

24 MR. TAGUCHI: And that's your job to document it in
25 your report?

1 OFFICER INGRASSIA: Wait. What am I documenting?

2 MR. TAGUCHI: The number. The number.

3 OFFICER INGRASSIA: Yes, I put it on there.

4 MR. TAGUCHI: And you record it accurately, of
5 course?

6 OFFICER INGRASSIA: Supposed to.

7 MR. TAGUCHI: Where were you coming from before you
8 saw Mr. Bhatnagar?

9 OFFICER INGRASSIA: That's (inaudible). I don't
10 recall.

11 MR. TAGUCHI: Were you with anybody, or were you by
12 yourself?

13 OFFICER INGRASSIA: I was -- I was driving -- I was
14 riding solo.

15 MR. TAGUCHI: You have no recollection at all where
16 you were coming from?

17 OFFICER INGRASSIA: No.

18 MR. TAGUCHI: Which directly were you driving?

19 OFFICER INGRASSIA: Westbound.

20 MR. TAGUCHI: Westbound on what street?

21 OFFICER INGRASSIA: Bollinger Canyon.

22 MR. TAGUCHI: And how long had you been on Bollinger
23 Canyon before you saw Mr. Bhatnagar?

24 OFFICER INGRASSIA: Don't recall.

25 MR. TAGUCHI: What's your best estimate?

1 OFFICER INGRASSIA: I -- it's a very long street. It
2 could have been -- could have been a long time, or I
3 could have just turned. I -- I -- I have no recollection
4 of how long I was on the street.

5 MR. TAGUCHI: You weren't sitting near the restaurant
6 there on the corner of Bollinger and what's that other
7 street there?

8 OFFICER INGRASSIA: El Balazo?

9 MR. TAGUCHI: Yes. Do you know -- do you know -- do
10 you know what restaurant I'm talking about?

11 OFFICER INGRASSIA: I do.

12 MR. TAGUCHI: It's called El Balazo.

13 OFFICER INGRASSIA: Yes.

14 MR. TAGUCHI: Are you familiar with that restaurant?

15 OFFICER INGRASSIA: Uh-hmm. Of course.

16 MR. TAGUCHI: And why are you so familiar with that
17 restaurant?

18 OFFICER INGRASSIA: Because it's one of the only
19 clubs in town.

20 MR. TAGUCHI: And do you view that as a high number
21 of people drink there and then get in their cars and
22 drive?

23 OFFICER INGRASSIA: I --

24 MR. TAGUCHI: Does it have -- does it have that
25 reputation?

1 OFFICER INGRASSIA: You -- you -- you would think it
2 does, but I don't hardly -- I hardly get any DUIs out of
3 there, so --

4 MR. TAGUCHI: Well, to you. I mean to your --

5 OFFICER INGRASSIA: No.

6 MR. TAGUCHI: -- to your knowledge --

7 OFFICER INGRASSIA: But a lot of people of drink.
8 There's a lot of alcohol being served there.

9 MR. TAGUCHI: Okay.

10 OFFICER INGRASSIA: Lot of -- lot of taxi cabs
11 (inaudible) there as well.

12 MR. TAGUCHI: Well, I'm -- I'm just asking for your,
13 you know, perception and your knowledge of the area since
14 you've been patrolling that particular area, and that's
15 your knowledge that that -- you know, that's one of the
16 few clubs in San Ramon, and it's known for people
17 drinking there and --

18 OFFICER INGRASSIA: Uh-hmm.

19 MR. TAGUCHI: -- potentially getting in their cars
20 and driving, correct? It has a reputation?

21 OFFICER INGRASSIA: No, it doesn't. It has a
22 reputation of a lot of people drinking there.

23 MR. TAGUCHI: But you don't single that particular
24 restaurant out?

25 OFFICER INGRASSIA: Single out?

1 MR. TAGUCHI: Single it out as people, you know,
2 patrons leaving that particular restaurant suspecting
3 them of driving under the influence?

4 OFFICER INGRASSIA: No.

5 MR. TAGUCHI: Did you think Mr. Bhatnagar came from
6 that restaurant?

7 OFFICER INGRASSIA: I don't recall what I was
8 thinking where he came from.

9 MR. TAGUCHI: Did you assume that he was coming from
10 that restaurant?

11 OFFICER INGRASSIA: I don't recall.

12 MR. TAGUCHI: So you were driving westbound. And
13 what first drew your attention to his vehicle?

14 OFFICER INGRASSIA: Probably when he made the U-turn
15 and I looked up and noticed there was a "no U-turn" sign
16 there.

17 MR. TAGUCHI: So you're going down Bollinger Canyon.
18 And what street did he make a U-turn in?

19 OFFICER INGRASSIA: I need to look. I think it's
20 Bishop Ranch 1. One Bishop Ranch.

21 MR. TAGUCHI: Would it help you to refresh your
22 memory by looking at your report?

23 OFFICER INGRASSIA: Uh-hmm.

24 MR. TAGUCHI: Okay.

25 OFFICER INGRASSIA: Yeah. It looks like Bishop Ranch

1 1 East is what it's called.

2 MR. TAGUCHI: What was the street before that?

3 OFFICER INGRASSIA: Before Bishop Ranch 1?

4 MR. TAGUCHI: Correct. Going --

5 OFFICER INGRASSIA: That would be Market Place.

6 MR. TAGUCHI: Market Place. Okay. And that's the
7 corner where the restaurant is and eventually the gas
8 station where you stopped Mr. Bhatnagar; is that correct?

9 OFFICER INGRASSIA: The gas -- the gas station's on
10 the corner. The restaurant's tucked -- tucked away just
11 in -- in --

12 MR. TAGUCHI: It's fairly close to that --

13 OFFICER INGRASSIA: Fairly close to the corner, yes.

14 MR. TAGUCHI: Across the street from the gas station
15 on --

16 OFFICER INGRASSIA: Uh-hmm.

17 MR. TAGUCHI: -- on Market Place?

18 OFFICER INGRASSIA: Yeah.

19 MR. TAGUCHI: Okay. This Officer's Statement, this
20 13353, do you have that copy, Mr. Lee, **Exhibit No. 1?**

21 HEARING OFFICER LEE: Page two.

22 MR. TAGUCHI: Okay. Now, where -- it looks like
23 there was a cut and paste there.

24 OFFICER INGRASSIA: Yeah.

25 MR. TAGUCHI: What's that a cut and paste from

1 OFFICER INGRASSIA: It's a cut and past from the
2 first couple paragraph of my report.

3 MR. TAGUCHI: And so you signed this under the
4 penalty of perjury that the foregoing statement is true
5 and correct?

6 OFFICER INGRASSIA: Yes.

7 MR. TAGUCHI: Okay. So would that include your
8 entire police report, or just a section of the police
9 report?

10 OFFICER INGRASSIA: Well, this particular section
11 would -- would -- or this portion is signed under penalty
12 of perjury.

13 MR. TAGUCHI: Okay. But no other aspect of your
14 police report is signed under the penalty of perjury, or
15 you don't verify it as being true and correct?

16 OFFICER INGRASSIA: Well, now that I noticed that the
17 number is wrong on the evidence kit, that was an error,
18 but I would sign under -- thinking that it was written
19 right, yes. That was -- that was -- but I signed this
20 under penalty of perjury, yes. This is true and correct
21 to the best of my knowledge.

22 MR. TAGUCHI: Okay. So it was -- you're heading down
23 westbound. How far were you behind Mr. Bhatnagar's
24 vehicle before you saw him make -- saw him make the
25 U-turn?

1 HEARING OFFICER LEE: Counsel, did you say behind his
2 vehicle?

3 MR. TAGUCHI: Yes. Yes. Can you answer the
4 question?

5 OFFICER INGRASSIA: Yeah. Yeah, I can answer the
6 question.

7 MR. TAGUCHI: Okay.

8 OFFICER INGRASSIA: I was thinking Mr. Lee was going
9 to say something.

10 MR. TAGUCHI: An objection?

11 OFFICER INGRASSIA: No. It just looked like he was
12 about to say something, and I didn't want -- I didn't
13 want to interrupt.

14 HEARING OFFICER LEE: I apologize.

15 OFFICER INGRASSIA: I was -- to the best of my
16 knowledge, I -- I was not very far. I was within 100
17 feet. I was -- I was probably close -- I was probably --
18 I probably passed the Market Place intersection, so
19 Market Place and Bishop Ranch intersection aren't too far
20 away. So I was within 100 feet I'd say.

21 MR. TAGUCHI: All right. You know, I have an
22 overhead aerial picture of the two intersections. If I
23 show you this picture, sir, so you can orient yourself.
24 This is Market Place.

25 OFFICER INGRASSIA: Okay.

1 MR. TAGUCHI: And this is Bishop --

2 OFFICER INGRASSIA: This would be Bishop Ranch here.

3 MR. TAGUCHI: Bishop Ranch East; is that correct?

4 OFFICER INGRASSIA: Looks like it, yes.

5 MR. TAGUCHI: Okay. Are you familiar, Mr. Lee,

6 this -- since you're the fact taker?

7 HEARING OFFICER LEE: Uh-hmm.

8 MR. TAGUCHI: Okay. So could you identify this

9 street for -- for Mr. Lee, please?

10 OFFICER INGRASSIA: That's Market Place.

11 MR. TAGUCHI: Okay.

12 HEARING OFFICER LEE: Market Place.

13 MR. TAGUCHI: And what is this street here?

14 OFFICER INGRASSIA: This is Bollinger.

15 MR. TAGUCHI: Okay. And which would be westbound

16 Bollinger?

17 OFFICER INGRASSIA: This is westbound.

18 MR. TAGUCHI: All right. So that directional is

19 correct based on this map?

20 OFFICER INGRASSIA: To the best of my knowledge.

21 This is westbound Bollinger, yeah.

22 MR. TAGUCHI: Okay. And then what would this street

23 be?

24 OFFICER INGRASSIA: That's Bishop Ranch 1 East.

25 MR. TAGUCHI: Okay. What type of car was

1 Mr. Bhatnagar driving?

2 OFFICER INGRASSIA: If I can remember to my report?

3 It's a silver Nissan Sentra.

4 MR. TAGUCHI: Now, where were -- okay. Now, where
5 was he when you first saw him, and where were you? If
6 you can mark -- use my pen and draw a -- draw a rectangle
7 box depicting where Mr. Bhatnagar was when you first saw
8 him.

9 OFFICER INGRASSIA: He was probably somewhere around
10 here making a U-turn.

11 MR. TAGUCHI: Okay. Just make a rectangle.

12 OFFICER INGRASSIA: So he was probably right around
13 there.

14 MR. TAGUCHI: Okay. And then where was your -- was
15 it a patrol vehicle you were driving that night?

16 OFFICER INGRASSIA: Yeah.

17 MR. TAGUCHI: Okay. Where was your -- did it have
18 a -- could you describe your vehicle, the way it looked?

19 OFFICER INGRASSIA: It's a white Ford Crown Victoria
20 fully marked, lights and decals.

21 MR. TAGUCHI: And are the lights on the --

22 OFFICER INGRASSIA: Lights are on the --

23 MR. TAGUCHI: -- hood?

24 OFFICER INGRASSIA: -- on the top, on the -- on the
25 roof.

1 MR. TAGUCHI: Like a, you know, typical police
2 cruiser?

3 OFFICER INGRASSIA: Like a -- yeah. Like a typical
4 fully marked or semi-marked --

5 MR. TAGUCHI: Okay. All right. So can you depict
6 with a circle where your police cruiser was when you
7 first saw Mr. Bhatnagar?

8 OFFICER INGRASSIA: Well, it's somewhere around here.
9 It's an estimate.

10 MR. TAGUCHI: Just your best estimate. I mean
11 obviously we're not -- you know, this is -- it's not
12 rocket science here. I mean we're just asking for your
13 best estimate.

14 Okay. So how far would you say that approximately
15 would be? This is when you first saw Mr. Bhatnagar.

16 HEARING OFFICER LEE: Counsel, didn't he earlier say
17 about approximately 100 feet?

18 MR. TAGUCHI: Yes.

19 OFFICER INGRASSIA: Okay. It's still about 100 feet.
20 Maybe even less. I don't -- I don't know.

21 MR. TAGUCHI: Okay. And was there any traffic
22 between you and Mr. Bhatnagar?

23 OFFICER INGRASSIA: Not -- not that I can recall.

24 MR. TAGUCHI: And it was pretty empty that time of
25 day?

1 OFFICER INGRASSIA: That -- between us it was fairly
2 empty, as far as I can recall.

3 MR. TAGUCHI: What's the general conditions like on
4 Bollinger Canyon at approximately one o'clock in the
5 morning?

6 OFFICER INGRASSIA: It's usually fairly light.

7 MR. TAGUCHI: Okay. It's not like five o'clock in --

8 OFFICER INGRASSIA: It's not like this.

9 MR. TAGUCHI: -- in the afternoon?

10 OFFICER INGRASSIA: Whenever -- it's not like
11 whenever this picture was taken.

12 MR. TAGUCHI: Okay. And so what was -- you're saying
13 that there is a no U-turn sign there?

14 OFFICER INGRASSIA: Yeah.

15 MR. TAGUCHI: Okay. Where is the no U-turn sign
16 located?

17 OFFICER INGRASSIA: It's going to be up on the other
18 side of the intersection where the -- the traffic light,
19 signal lights, are.

20 MR. TAGUCHI: All right. I have a photograph and I
21 have a little portion of it covered. Looking at this
22 photograph, does this photo -- what does this photograph
23 depict?

24 HEARING OFFICER LEE: Are you referring to the light?

25 OFFICER INGRASSIA: That's west -- that's eastbound

1 Bollinger.

2 MR. TAGUCHI: Eastbound Bollinger?

3 OFFICER INGRASSIA: It looks like that's the
4 eastbound traffic. Yeah. That's the opposite direction.

5 MR. TAGUCHI: And this -- and this is Bishop Ranch?

6 OFFICER INGRASSIA: Uh-hmm.

7 MR. TAGUCHI: Okay. Now, is there a possibility to
8 make a left turn in there?

9 OFFICER INGRASSIA: From -- are you talking about
10 from this picture or this picture?

11 MR. TAGUCHI: Yeah. From -- from -- if you're going
12 eastbound on Bollinger -- you're saying this is eastbound
13 direction?

14 OFFICER INGRASSIA: This is -- that's the eastbound,
15 which is not -- that -- that picture's taken from right
16 here going that direction is what I'm trying to tell you.

17 MR. TAGUCHI: Okay. Now, from Bollinger Canyon going
18 eastbound, is there a street that you can make a left on?

19 OFFICER INGRASSIA: There's nothing here.

20 MR. TAGUCHI: So you can't make a left?

21 OFFICER INGRASSIA: There is a driveway, I believe,
22 but it -- there's no street.

23 MR. TAGUCHI: Okay.

24 OFFICER INGRASSIA: It's for future --

25 MR. TAGUCHI: All right.